BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2003-84-E - ORDER NO. 2003-283

APRIL 28, 2003

IN RE:	Petition of Carolina Power & Light Company, Duke Energy Corporation, and South Carolina Electric & Gas Company for an Accounting Order to Place Certain Asset Requirement Obligations Costs in a Deferred Account.	))))))	ORDER APPROVING ACCOUNTING TREATMENT

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Joint Petition of Carolina Power & Light Company (CP&L), Duke Energy Corporation (Duke), and South Carolina Electric & Gas Company (SCE&G) (collectively known as the Joint Petitioners) for an accounting order for regulatory accounting purposes allowing the Joint Petitioners to place certain Asset Retirement Obligations (ARO) costs in a deferred account on the basis that the current regulatory treatment for these costs should not be altered due to the Petitioners' adoption of the Financial Accounting Standards Boards' (FASB) Statement No. 143.

According to the Joint Petition, in June 2001, the FASB issued Statement 143, Account for Asset Retirement Obligations. It is effective for fiscal years beginning after June 15, 2002. Statement 143 sets forth the way companies recognize and measure legal retirement obligations that result from the acquisition, construction and normal operation of tangible long-lived assets. Prior to Statement 143, there was no comprehensive guidance on how legal retirement obligations should be recorded. According to the Joint

Petition, for purposes of Statement 143, a legally enforceable retirement obligation can result from:

(a) A government action, such as a law, statute, or ordinance,

(b) An agreement between entities, such as a written or oral contract,

(c) Legal construction of a contract under the doctrine of promissory estoppel.

Once it is determined that an obligation falls within the scope of Statement 143, the liability must be measured at fair value with fair value being the amount that an entity would be required to pay in an active market to settle the ARO. An entity shall recognize the fair value of a liability for an ARO in the period in which it is incurred if a reasonable estimate of fair value can be made. If a reasonable estimate of fair value cannot be made in the period the ARO is incurred, the liability shall be recognized when a reasonable estimate of fair value can be made. If quoted market prices are not available, an estimate of fair value can be calculated using valuation techniques such as the expected present value method. The offset to establishment of the initial ARO is a cost that is capitalized as part of the related asset's book cost, which is depreciated over the appropriate asset life.

For periods subsequent to the initial measurement, entities are required to recognize changes in the liability resulting from the passage of time and from revisions in the timing or amount of estimated cash flows. Changes resulting from the passage of time will increase the carrying amount of the liability and will be recognized as an operating cost. Most entities, including the Joint Petitioners, will use the expected present value method due to the lack of an active market for settling AROs in order to determine the

ARO liability and offsetting asset at its inception. Under the expected present value method, entities must incorporate assumptions into their cash flows that are consistent with assumptions that would be considered by third parties. Such third party market assumptions include the following:

(a) The costs that a third party would incur in performing the tasks necessary to retire the asset;

(b) Other amounts that a third party would normally include such as inflation, overhead, equipment charges, profit margin, and advances in technology;

(c) The extent that a third party's costs of timing would differ due to different future scenarios and relative probability;

(d) The market risk premium that a third party would demand in return for taking on risks (similar to a contingency factor).

According to the Joint Petitioners, their only measurable ARO pertains to the radiated portions of their nuclear plants and certain environmental clean-up costs. The Joint Petitioners have measured the beginning ARO and related asset, the cumulative amounts of depreciation expense and accretion expense incurred as of January 1, 2003, and the ongoing amounts of depreciation and accretion expense.

Basically, the Joint Petitioners request this Commission's approval to place all impacts to their income statements caused by the adoption of Statement 143 in regulatory deferred accounts. These impacts would include a cumulative adjustment as of January 1, 2003, and ongoing expense recognition impacts. In support of this request, the Joint Petitioners note that the Commission established specific levels of decommissioning costs to be included in rates in the Joint Petitioners' general rate cases. The Joint Petitioners do not believe that Statement 143 is more appropriate for ratemaking purposes

than the current Commission-approved decommissioning cost levels. For example, Statement 143 requires the assumption that the liability is settled with a third party at an amount that would include third-party profit and market risk premium, even though the entity with ARO liability may have no intent to settle the liability in this manner, and in many cases there is no market for such settlement, according to the Joint Petitioners. The Joint Petitioners state that use of the third party assumption could result in overstating costs during the life of an asset such as a nuclear plant, with an offsetting gain to be recognized upon completion of decommissioning by the entity itself. Also, Statement 143 does not consider the effect of expected earnings on funds collected when calculating the ARO expense, whereas the Commission-approved methodology currently included in the Joint Petitioners' South Carolina retail rates reflects this cost offset.

According to the Joint Petitioners, their returns should not be impacted, either positively or negatively, by the adoption of an accounting standard applicable to all industries in place of a revenue requirement and associated expense methodology that was carefully considered in the Petitioners' rate cases. For reasons such as those cited above, the Joint Petitioners believe that any consideration of a potential change from the current treatment to the Statement 143 treatment, including one-time cumulative effects and ongoing differences, would be best addressed in a general rate review. The Joint Petitioners further state that the creation of the requested deferred accounts will not impact the total expense to be incurred by the Joint Petitioners with regard to their AROs. In addition, this request does not involve a change to any of the Joint Petitioners' rates or prices, or any Commission rule, regulation or policy. Finally, the Joint Petitioners request

that the accounting order be made effective as of January 1, 2003, and thereafter, until such time as the Commission orders a change.

Accordingly, the Joint Petitioners petition the Commission to issue an accounting order for regulatory accounting purposes allowing the Joint Petitioners to place certain Asset Retirement Obligations costs in deferred accounts on the basis that the current regulatory treatment for these costs should not be altered due to the Joint Petitioners' adoption of the Financial Accounting Standards Board's Statement 143.

Subsequent to the filing of the Joint Petition, the Consumer Advocate for the State of South Carolina (the Consumer Advocate) filed a Petition to Intervene and a Motion for an Order delaying the issuance of the requested accounting order until such time as this matter has been noticed, interested parties have had the opportunity to obtain further information from the Companies regarding the proposal, and, at a minimum, those parties have been allowed to file comments regarding the proposal with the Commission.

After the Consumer Advocate's Petition to Intervene and Motion were filed, CP&L and Duke filed a Response to these documents. The Response challenges the Consumer Advocate's statutory authority to intervene in this matter, pursuant to S. C. Code Ann. Section 37-6-604. CP&L and Duke assert that the present case does not fall into any of the categories of cases in which the Consumer Advocate is allowed to intervene. Further, CP&L and Duke state that the present matter is not a "contested case" under S.C. Code Ann. Section 1-23-310. Finally, the two companies point to S.C. Code Ann. Section 58-27-870 as providing for requests such as the one at issue in this Docket to be decided without notice or hearing. SCE&G also filed a letter concurring in the

response of CP&L and Duke. In further support of the original motion, SCE&G points out that this Commission has previously held that approval of accounting treatments such as the one proposed by the Joint Petitioners is not considered precedent and does not prejudice the right of any party to take issue with the treatment in future rate or earnings related proceedings. SCE&G then cites Commission Order Nos. 1999-655 and 1999-75 in support of this proposition. SCE&G also points out that disposition of this matter at this time will allow the utilities to timely close their books for the first quarter 2003, and appropriately complete the quarterly reports predicated thereon.

The Consumer Advocate filed a Return to the Response of CP&L and Duke to the Consumer Advocate's Motion. The Consumer Advocate asserts that S.C. Code Ann. Section 58-27-870(F) is applicable only when the matters under consideration are rates or tariffs, and the accounting order requested in the case at bar is neither. Thus, under the Consumer Advocate's theory, the cited section does not apply. Further, the Consumer Advocate states that his jurisdictional statute applies in the present matter, and that the matter is a contested case.

We have considered the totality of the circumstances in this case, and we hereby grant the Joint Petition as filed. Further, we deny the Petition to Intervene and Motion filed by the Consumer Advocate.

We believe that the Joint Petitioners have stated a great many reasons for the proposition that the current regulatory treatment for AROs should not be altered at this time due the Joint Petitioners' adoption of FASB Statement 143. First, this Commission did establish specific levels of decommissioning costs to be included in rates in the Joint

Petitioners' rate cases. We agree with the Joint Petitioners belief that Statement 143 is not more appropriate for ratemaking purposes than the current Commission-approved decommissioning cost levels. Further, Statement 143 does not consider the effect of expected earnings on funds collected when calculating the ARO expense, whereas the Commission-approved methodology currently included in the Joint Petitioners' South Carolina retail rates reflects this cost offset.

We agree that any consideration of a potential change from the current treatment to the Statement 143 treatment would be best addressed in a general rate review. We also believe, as do the Joint Petitioners, that creation of the requested deferred accounts will not impact the total expense to be incurred by the Joint Petitioners with regard to their AROs, and that the request does not involve a change to any of the Joint Petitioners' rates or prices, or any other Commission rule, regulation, or policy.

We would further point out that SCE&G correctly states that this Commission has previously held that approval of accounting treatments such as the one proposed by the Joint Petitioners is not considered precedent and does not prejudice the right of any party to take issue with the treatment in future rate or earnings-related proceedings. Further, SCE&G points out that disposition of this matter at this time will allow the utilities to timely close their books for the first quarter of 2003, and appropriately complete the quarterly reports predicated thereon. We agree with these principles, and because of them, deny the Consumer Advocate's Petition and Motion. We take no position at this time on the Consumer Advocate's jurisdiction to intervene in this case, or on the "contested" nature of these proceedings. We do not think that the filing of comments is

appropriate at this time. We believe that the Joint Petitioners have stated good reasons to place the requested procedure into effect as filed.

Accordingly, we hereby issue the requested accounting order for regulatory accounting purposes allowing the Joint Petitioners to place certain Asset Retirement Obligations costs in deferred accounts on the basis that the current regulatory treatment for these costs should not be altered due to the Petitioners' adoption of the FASB Statement 143. A cumulative adjustment as of January 1, 2003 may be made, with ongoing expense recognition impacts. Further, the accounting treatment approved herein shall not be considered precedent and shall not prejudice the right of any party to contest this accounting treatment in any future rate proceeding or other earnings-related proceeding.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Mignon L. Clyburn, Chairman

ATTEST:

Gary E. Walsh, Executive Director

(SEAL)